Supreme Court, U.S.
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No._____

IN THE
SUPREME COURT OF THE UNITED STATES

Isidoro Rodriguez,

Petitioner,

v.

Danilo Davis Pereira,

Respondent/Defendant,

and

Hon. Leroy Rountree Hassell, Sr., Chief Justice of the Supreme Court of Virginia, the Virginia State Bar, and 1st Vice Chair J. Leroy Banks, Esq., of the Virginia State Bar Disciplinary System,

Respondents.

On Petition For Writ of Certiorari
to the Supreme Court of the Commonwealth of Virginia

PETITION FOR WRIT OF CERTIORARI

Isidoro Rodriguez, *Pro per*
Member of the Bar of
The United States Supreme Court, Sept. 11, 1992
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More than three years ago Petitioner Isidoro Rodriguez ("Rodriguez") in October 2003, filed this action in the Fairfax County Circuit Court seeking to protect his statutory property rights in his perfected charging Virginia Attorney's Lien, his multinational business, and his profession from a business conspiracy by his agent and local counsel Respondent Danilo Devis P. ("Devis"), and others.

Jurisdiction is present under Virginia's Long-Arm Statute because as Rodriguez's law partner and agent: first, Devis specifically agreed to abide by the laws of Virginia so to receive its "benefits and protections"; second, Devis entered Virginia to transact business; and, third, Devis in 2004 provided false testimony to the Virginia State Bar ("VSB"), as part of business conspiracy.

But Devis failed to Answer, although also in 2004 being served the complaint pursuant to the Inter-American Convention on Letters of Rogatory. Thus in February 2005, a default judgment was entered against Devis, and discovery and a jury trial on damages was ordered. However in December 2005, the Circuit Court vacated the default order and dismissed the action without prejudice. The Circuit Court disregarded the evidence that simultaneous with the court proceedings before it challenging the court's jurisdiction, but Devis used the "benefits and protection" of the laws of Virginia to make false statements to the VSB, in furtherance of the business conspiracy. The Supreme Court of Virginia ("S. Ct. of VA"), denied an appeal on June 8th, and for a rehearing on September 22nd 2006.

Simultaneous with these court proceedings finding no jurisdiction to enforce Rodriguez's statutory rights, the VSB on October 27, and November 28, 2006, stigmatized and defamed Rodriguez by revoking his license to practice law in Virginia because he took "actions" to enforce and

protect his statutory and Treaty rights as a father, as well his statutory property rights in his perfected charging Virginia Attorney's Lien.

QUESTION PRESENTED FOR REVIEW

I. WHETHER THE SUPREME COURT OF VIRGINIA ERRED BY REFUSING TO FIND JURISDICTION GIVEN THAT DEVIS ACCEPTED THE "BENEFITS AND PROTECTION" OF VA, TRANSACTION BUSINESS IN VA, AND COMMIT THE TORT OF PROVIDING FALSE TESTIMONY TO THE VSB?

II. WHETHER THE SUPREME COURT OF VIRGINIA VIOLATED RODRIGUEZ'S RIGHT TO DUE PROCESS IN AFFIRMING THE VOIDING THE DEFAULT ORDER FOR LACK OF JURISDICTION, WHILE SIMULTANEOUSLY ITS AGENT, THE VSB INVESTIGATED AND REVOKED RODRIGUEZ'S RIGHT TO PRACTICE LAW IN VIRGINIA?

III. WHETHER THE SUPREME COURT OF VIRGINIA VIOLATED RODRIGUEZ'S RIGHT TO EQUAL PROTECTION OF THE LAWS IN NOT COMPLYING WITH THE MANDATE OF THE GENERAL ASSEMBLY OF VA, AND *STARE DECISIS*, AS TO PROTECTION GIVEN TO A VIRGINIA ATTORNEY'S LIEN AND THE RIGHT TO A JURY TRIAL?

IV. WHETHER THE SUPREME COURT OF VIRGINIA VIOLATED RODRIGUEZ'S RIGHTS AS AN ACTIVE MEMBER OF THE VIRGINIA BAR BY ALLOWING THE VSB TO ACT OUTSIDE OF ITS LIMITED AUTHORITY?

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CITATIONS TO OPINIONS BELOW

The unpublished orders of the Supreme Court of Virginia ("S. Ct. of VA") whose review is sought are reproduced in the Appendix at A-1, A-2, A-3, and A-4.[1] The unpublished orders of the Fairfax County Circuit Court whose review is sought are reproduced in the Appendix at A-5 and A7. The orders of their agent, 1st Vice Chair J. Leroy Banks of the VSB reproduced at A-14, A-46, and A-47. The 1991 Virginia State Bar Legal Ethics Opinion ("VSB LEO"), issued to Rodriguez is reproduced at A-50.

STATEMENT OF JURISDICTION

The S. Ct. of VA denied a motion for a preliminary injunction and writ of mandamus to the VSB on October 25, 2006. The S. Ct. of VA denied a motion to defer issuance of the mandate on October 18, 2006. The Supreme Court of Virginia denied the Petition for Rehearing *en Banc* on September 22, 2006. The S. Ct. of VA refused the Petition for Appeal on June 8, 2006. 1st Vice Chair J. Leroy Banks of the VSB issued orders revoking the licence of Rodriguez on October 27, and November 31, 2006. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. 1257(a), 42 U.S.C. §1983, *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 at 486 (1983); and, *Supreme Court of Virginia v. Consumers Union fo the United States*, 446 U.S. 719 (1980).

STATEMENT REQUIRED BY RULE 29.4

The Court is informed that 28 U.S.C. § 2403, may apply and this Petition has been served upon the Solicitor

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[1]"A-" references are to pages in the Appendix.

General of the Untied States and the Attorney General of the Commonwealth of Virginia.

U.S. CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment provides in pertinent part, that no person shall "be deprived of . . . property, without due process of law."

The Due Process Clause of Section 1 of the Fourteenth Amendment provides that, "No State shall make or enforce any law which shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

VIRGINIA CONSTITUTION AND VIRGINIA STATUTORY PROVISIONS INVOLVED

CONSTITUTION OF VIRGINIA, SECTION 11. DUE PROCESS OF LAW; OBLIGATION OF CONTRACTS; . . . ; JURY TRIAL IN CIVIL CASES.

That no person shall be deprived of his . . . property without due process of law; that the General Assembly shall not pass any law impairing the obligation of contracts, . .

That in controversies respecting property, and in suits between man and man, trial by jury is preferable to any other, and ought to be held sacred . . . .

Virginia Code § 8.01-336. Jury trial of right; waiver of jury trial . . . . — A. The right of trial by jury as declared in Article I, Section 11 of the Constitution of Virginia and by statutes thereof shall be preserved inviolate to the parties.

B. Waiver of jury trial. — In any action at law in which the recovery sought is greater than $100, exclusive of interest, unless one of the parties demand that the case or

any issue thereof be tried by a jury, . . . , the whole matter of law and fact may be heard and judgment given by the court. . . .

Virginia Code § 54.1-3932. Lien for fees. Any person having or claiming a right of action sounding in . . . contract, may contract with any attorney to prosecute the same, and the attorney shall have a lien upon the cause of action as security for his fees for any services rendered in relation to the cause of action or claim. . . .

Virginia Code § 18.2-499. Combination to injure others in their reputation, trade, business or profession: right of employees.

(a) Any two or more persons who shall combine, associate, agree, mutually undertake or concert together for the purpose of wilfully and maliciously injuring another in his reputation, trade, business or profession by any means whatever, . . . , or preventing or hindering another from doing or performing any lawful act, shall be jointly and severally guilty of a Class 3 misdemeanor. Such punishment shall be in addition to any civil relief recoverable under § 18.2-500.

Virginia Code § 18.2-500. Same; civil relief; damages and counsel fees; injunctions. —(a) Any person who shall be injured in his reputation, trade, business or profession by reason of a violation of § 18.2-499, may sue therefor and recover three-fold the damages by him sustained, and the costs of suit, including a reasonable fee to plaintiff's counsel; and without limiting the generality of the term, "damages" shall include loss of profits. . . .

Virginia Code § 8.01-328.1. When personal jurisdiction over person may be exercised.

A. A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action arising from the person's:

1. Transacting any business in this Commonwealth;...;

3. Causing tortious injury by an act or omission in this Commonwealth;

4. Causing tortuous injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly . . .engages in any other persistent course of conduct, or derives substantial revenue from . . . services rendered, in this Commonwealth;. . . .

STATEMENT OF THE CASE

Rodriguez has been domiciled in Virginia since 1979, and was an active member in good standing of the Virginia State Bar from June 1982 until October 27, 2006.[2]

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[2] As discussed below, 1st Chair Mr. J. Leroy Banks, Jr., Esq., issued a *void* orders to stigmatized Rodriguez by immediately revoking his license to practice law in Virginia due to taking "actions" (A-46), to enforce/protect from a business conspiracy his substantial statutory property right in his perfected Virginia Attorney's Lien; and to compel the United States Department of State, Department of Justice, and their independent contractor acting as an "instrumentality of government," the National Center for Missing & Exploited Children ("Executive Branch"), and the Virginia and Federal courts in the Fourth and D.C. Circuits ("Judicial Branch"), to comply with their respective ministerial and judicial duties to secure parental rights of visitation, and damages for obstructing in violation of 18 U.S. C. §§ 4, 1001, 1204, his parental rights. The VSB was unconcerned that Rodriguez's Son has been unlawfully deprived of the rights, privileges, and duties of his Untied States citizenship-since June 11, 2002.

In 1987, as a condition precedent to forming a multinational law partnership focused on serving United States transnational business in South America, and litigating the rights of nonresident Hispanics in the United States,[3] pursuant to Virginia Rules of Professional Conduct, Rule 5.1 and 5.2, Rodriguez required that his prospective Colombian law partner, Danilo Devis Pereira ("Devis"), agreed to subject himself to the laws and jurisdiction of Virginia.[4]

In 1988, because Rodriguez was a member of the Virginia State Bar, with an office Colombia, the Board of Director's of Sea Search Armada *et al.* ("SAA Entities *et*

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[3]On March 15, 1995, prior to Rodriguez successfully arguing *Martinez v. Lamagno and DEA*, 115 S.Ct. 2227; 132 L.Ed. 2d 375 (1995), the *Legal Times* in an article confirmed with the Clerk's office that Rodriguez was the only U.S. licensed attorney in their records who resided outside the United States, but litigated in Federal courts.

[4]Rodriguez felt confident in Devis loyalty because Rodriguez saved Devis' life in 1985, by disarming an assailant who had fired shots at Devis' head, and when Rodriguez was Assistant General Counsel, Morrison Knudsen International on the $2 Billion EXXON Cerrejon Coal Project in the Republic of Colombia ("Colombia"), Rodriguez retained Devis as his local counsel.

al."),[5] enacted a Board Resolution on December 15, 1988,[6] to retain on an hourly fee contract Rodriguez to serve as their Legal Representative and Managing Attorney of their $10 Billion contract claim against Colombia (A-17). However, prior to this on December 14, 1988, SSA Entities *et al.,* required as a condition precedent that Rodriguez confirm that **"[a]s an Attorney licensed by the State of Virginia, Bar Membership Number 21573, [he understood] that any violation of the above restrictions will result in an action before the Virginia Bar Ethics Committee."** (Emphasis added)(A-17). Thus the evidence is clear, SSA Entities *et al.*, specifically sought out Rodriguez to avail themselves of the **"benefits and protection"** of the laws of Virginia.

Shortly thereafter, upon Devis' confirming to comply with the laws of Virginia, Rodriguez named Devis <u>his</u> local

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[5]SSA Entities *et al.,* are a joint venture of entities and individuals, including former White House Advisor John Erlichman, former White House Counsel James Falk, former Congressman Guy Vander Jagt as their lobbyists, and a number of major Beltway law firms, that assumed Sea Search-Armada and Armada Company's claim to 17 treasure troves targets sunk off the coast of Colombia valued at $3 to $10 Billion.

[6] Pursuant to the laws of Colombia to obtained jurisdiction to sue in Colombia, the Board of Directors were required to enact a general power of attorney by Board Resolution giving Rodriguez in Colombia all all their authority. <u>As noted, the Board did this because they availed themselves of the "benefits and protection" of the laws of Virginia by Rodriguez's fiduciary duty being governed by the Virginia State Bar.</u> The record confirms that to date this Board Resolution and the Power of Attorney has not been rescinded pursuant to the laws of Colombia, and is still effective.

counsel with the limited authority of filing the litigation against Colombia. However, pursuant to the laws of Colombia, Rodrīguez as Legal Representative was responsible for the litigation as SSA Entities *et al.* Devis specifically agreed to abide by the laws of Virginia to obtain its "benefits and protection."(A-52).

After SSA Entities *et al*, as part of the hourly fee contracted, payed a retainer to Rodriguez of $10,000, to be responsible for what has been described as the "largest claim by American citizens against a foreign nation," from January 1989 to January 1991, SSA *et al.*, not only disregarded all monthly invoices sent for fees by Rodriguez, but more importantly "without [Rodriguez's] knowledge, sent a defamatory letter against [government of Colombia]" placing Rodriguez and Devis in "physical danger" (A-52).

Pursuant to the VSB procedure, based on these facts Rodriguez sought a VSB opinion. VSB LEO #1325, dated February 27, 2990 (A-50), issued to Rodriguez confirmed that Rodriguez's fiduciary duty, and obviously as well as of Devis as his law partner were under the supervision of the Virginia State Bar and the laws of Virginia, irrespective of Rodriguez providing legal services in Colombia, and that he had a right to sue his client for his fees in case of fraud.

Upon receiving from Rodriguez notice that he planned to filed suit for past fees based on VSB LEO # 1325 (A-50), the Board of Director's in January 1991, agreed to change Rodriguez's hourly fee to a 10% continency fee, and to not issue any more "defamatory letter[s]" against Colombia. As consideration for the contingency fee agreement Rodriguez agreed to waive the fees owed to him and Devis services from January 1989 to

January 1991, under the hourly contract.[7] Devis signed the contingency fee agreement on behalf of Devis and Rodriguez, and Rodriguez signed on behalf of SSA Entities *et al.* The contingency fee agreement was registered with the Colombian court.

After the contingency fee agreement was entered Rodriguez attended the mandatory ADR meeting in 1993 with the representatives the President of Colombia, and authorized Devis to travel as his agent to Virginia beginning in 1995, to transact business and conduct meetings with SSA Entities *et al.,* and their Lobbyist Mr. Guy Vander Jagt. At all times Devis provided a report at weekly meetings with Rodriguez as to both the status of litigation and strategy against the Government of Colombia.

Suddenly after the start of settlement negotiations in the Summer of 1998 began with Colombia Devis, did undertake a business conspiracy with SSA Entities *et al.,* to fraudulently deprive Rodriguez of his substantive statutory property right in his perfected charging Virginia Attorney's Lien.[8]

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[7] Devis had no direct contract with SSA Entities *et al.,* but instead his time was billed as part of the monthly invoice Rodriguez submited to SSA Entities *et al.*

[8]On April 6, 2000, without the legally required Board of Director's Resolution, Harbeston sent a letter unlawful terminating Rodriguez as Legal Representative and Managing Attorney to SSA Entities, *et al.*. On the same date, April 6, 2000, Devis sent a letter from Colombia into Virginia stating that Rodriguez had nothing what so ever to do with the litigation against Colombia. In June 2002, Devis assisted SSA Entities *et al.,* to fraudulently dissolve and illegal transferred title of the 15 sunken treasure ships from

Consequently, in September 2000, and then in October 2003, Rodriguez filed actions in both Federal and Virginia Courts to enforce and protect his perfected Virginia Attorney's Lien pursuant to the rights granted by the General Assembly of Virginia to all other Virginia attorneys under VA Code § 54.1-3932, VSB LEO #1325,[9] VA Bar LEO #1606, and #1766, and the *stare decisis* of the S. Ct. of VA, *see Huges v. Cole*, 251 Va3 (1996); *Heinzman v. Fine, Fine, Legion and Fine*, 217 Va. 958 (1977). Therefore, because Rodriguez provided 12 years of legal services as a U.S. "ex-pat" Legal Representative and Managing Attorney in Colombia from August 1988 to April 2000, and had not received any fee but for the retainer, based on *quantum merit* Rodriguez has an inchoate perfected charging Virginia Attorney's Lien of $360,000 per year for a total of $4.6 million.

The record now confirms that in furtherance of the business conspiracy as a counter strategy to Rodriguez's suit, SSA Entities et al., instructed its Lobbyist and their Washington attorneys to use their "Beltway" political power and judicial cronyism, to get Rodriguez out of Virginia the back to Colombia. To this end Rodriguez Son was shanghaied to Colombia on June 11, 2002,[10] and the Rodriguez parental rights were obstructed in violation of 18 U.S.C. §§

Sea Search-Armada to IOTA Partners. In January 2004, Devis gave false testimony in support of the unverified by affidavit VSB complaint against Rodriguez.

[9]This VSB LEO (A-55), confirmed Rodriguez's right to sue his client SSA Entities *et al.*, for his fees in case of "fraud."

[10]At that time Colombia was considered the most dangers location of U.S. citizens by the U.S. Department of States, and to date is the subject of Travel Warnings.

4 and 1204.[11] Also SSA Entities *et al.*, and the NCMEC et al. conspired to file two unverified by affidavit VSB Complaint, against Rodriguez: first, on October 13, 2003, the NCMEC et al. *et al.*, filed VSB Docket # 04-052-1044, and second, on January 15, 2004, at the same time that SSA Entities *et al.*, and Devis were challenging the jurisdiction of the Virginia Court, they availed themselves of the "benefits and protection" of Virginia law by filing an unverified by affidavit VSB Complaint, to "disbar" Rodriguez to punish Rodriguez for his litigation to enforce his property rights, VSB Docket # 04-052-0794.

On June 15, 2004, Devis was properly served pursuant to the Inter-American Convention on Letters of Rogatory. Devis failed Answer, despite his providing false testimony to the VSB. On January 23, 2005, the Fairfax Circuit Court entered a default order, ordered discovery and a jury trial on damages (A-7).

Based on the record of obstructing with Rodriguez's rights as a father, and depriving him of his perfected statutory property rights, in June/July 2005, Rodriguez

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[11]On January 23, 2003, Rodriguez and his Son filed an action against the NCMEC et al. for damages and to seek the issuance of a TRO/Injunction and Writ of Mandamus compel the Executive Branch's compliance with their ministerial duty to secure visitations pursuant to Virginia's Uniform Child Custody and Enforcement Act ("UCCJEA) VA Code § 20-146.01 *et seq.*, the Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, ("Treaty"), the International Child Abduction Remedies Act, 42 U.S.C. § 11601 *et seq.*, ("ICARA"), and the Joint Resolution 296 of the House of Representative, *see Sarah Claudia Aragon Canter vs. Andrew Cohen*, 442 F.3d 196 (4th Cir., March 21, 2006).

filed Notices of a Federal Tort Claim and a Notices of Virginia Tort Claim against the Virginia and Federal Judicial Branch for acts outside of their respective judicial capacity and jurisdiction.

Shortly thereafter, in response to Devis' motion to vacate the default order, on December 16, 2005, without requiring Devis to present any evidence as to why jurisdiction was not present to support the default order the Fairfax Circuit Court issued an order denying discovery, denying the demanded jury trial, and vacated the default order without prejudice based on lack of jurisdiction (A-5).

An appeal was filed with the S. Ct. of VA, which was denied on June 8, 2006 (A-4). A Petition for Rehearing *En Banc*, was denied on September 22, 2006 (A-3).

Simultaneous with the actions before the Fairfax Circuit Court, as well as the S. Ct. of VA, based on these two unverified by affidavit VSB Complaints, Rodriguez has been the subject of an intense VSB investigation since October 2003, that uncovered material facts which confirmed that SSA Entities *et al.*, had retained Rodriguez to avail themselves of the "**benefits and protection**" of Virginia law (A-17). Despite the existence of this record in their possession, or because of it, on June 20, 2006, the VSB Fifth District Subcommittee issued a Certification to disbar or revoke Rodriguez's license based on his litigating to enforce his parental rights and his property rights in his Virginia Attorney's Lien. The Certification process was used to deny Rodriguez discovery or any hearing. Without citing either any documentary evidence to support the finding of misconduct, or what in fact was Rodriguez's misconduct, the VSB made a factual determination that Rodriguez had lost his rights as a father and was not retained as a Virginia attorney, but instead was hired as a Spanish "translator."

Rodriguez filed an appeal to the Virginia State Bar Disciplinary Board, and pre-Hearing Motions to Dismiss the Certification for Lack of Subject Matter Jurisdiction, to Recuse the Panel Members, and a for a Jury Trial.

1st Chair J. Leroy Banks, Jr., of the VSB denied these holding that the Rules of the Supreme Court permitted the Bar to investigate and prosecute alleged ethical violations, irrespective of statutory rights. Subsequently, Mr. J. Leroy Banks denied Rodriguez of his right to confront witnesses and to secure documents by quashing all of the requested for Subpoenas *Duces Tecum*, and Witness Summons.

On September 27, 2006, a Motion for a Preliminary Injunction and the issuance of a Writ of Mandamus was filed with the S. Ct. of VA, to enjoin the VSB for violation of both the Virginia Constitution, Virginia Supreme Court Rules, and VA Code. This motion was denied on October 25, 2007(A-1).

At the hearing held on October 26 and 27, 2006, the Panel refused to permit into the record any evidence regarding Rodriguez's statutory rights as a father or his Virginia Attorneys Lien, holding that it was an attempt to again litigate issues they contended were decided by the courts already, and limited the hearing only to the evidence presented by the Senior Bar Counsel of Rodriguez litigation.

On October 27, 2006, and November 31, 2006, orders were issued, immediately revoking Rodriguez license to practice law. These were immediately published at www.vsb.-org.html. A timely Notice of Appeal will be filed with the S. Ct. of VA before December 31, 2006, but no stay is permitted during the appeal process.

REASONS FOR GRANTING THE WRIT OF CERTIORARI

I. THE WRIT SHOULD BE GRANTED BECAUSE THE SUPREME COURT OF VIRGINIA ERRED IN NOT HOLDING THAT JURISDICTION PRESENT DUE TO DEVIS OBTAINING THE "BENEFITS AND PROTECTION" OF THE LAWS OF VIRGINIA, TRANSACTING BUSINESS IN VIRGINIA AND PROVIDING FALSE TESTIMONY TO THE VSB.

In *Hanson v. Denckla*, 357 U.S. 235 at 254(1958), this Court defined the benchmark in determining jurisdiction over Devis in this action. There this Court stated,

> The unilateral activity of those who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact with the forum State. The application of that rule will vary with the quality and nature of the defendant's activity, but it is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws. *International Shoe Co. v. Washington,* 326 U.S. 310, 319. (Emphasis added) *See also, Republic of Argentina v. Weltover, Inc.*, 504 U.S. 607 (1992).

Therefore, jurisdiction over Devis is based on circumstances of this case amounting to sufficient affiliation with the State of Virginia, i.e. Devis agreeing to abide by the laws of Virginia to obtain its "benefits and protection" (A-52), Davis transacting business in Virginia, Davis providing tortious false statement in support of two unverified by affidavit VSB Complaint. Thus, the Courts of

Virginia are empowered to exercise personal jurisdiction over this nonresident defendant. *McGee v. International Life Ins. Co.,* 355 U.S. 220 (1957).

In *McGee* the Court noted the trend of expanding personal jurisdiction over nonresidents is away from the rigid rule of *Pennoyer v. Neff,* 95 U.S. 714 (1878), to the flexible standard of *International Shoe Co. v. Washington,* 326 U.S. 310 (1945).

Consequently, this suit is one to enforce an obligation that arose from a privilege Devis exercised under Virginia law. Cf. *International Shoe Co. v. Washington,* 326 U.S. 310, 319 (1945). Here Virginia special legislation, the Virginia Code of Professional Responsibility, and Virginia Attorney's Lien statute is what in *McGee* this Court called the State's "manifest interest" in providing effective redress for citizens who had been injured by nonresidents engaged in an activity that the State treats as exceptional and subjects to special regulation.

For the reason that Devis accepted the laws of Virginia to work with a Virginia attorney (A-50), and utilized the benefits and protection of Virginia law in assisting in the filing a fraudulent unverified by affidavit VSB Complaint, jurisdiction is present.

II. THE WRIT SHOULD BE GRANTED BECAUSE THE SUPREME COURT OF VIRGINIA VIOLATED RODRIGUEZ'S RIGHT TO DUE PROCESS BY AFFIRMING THAT VOIDING OF THE DEFAULT ORDER FOR LACK OF JURISDICTION, WHILE THE VSB INVESTIGATED AND REVOKED RODRIGUEZ'S RIGHT TO PRACTICE LAW IN VIRGINIA.

Due process of law is a legal concept that ensures the government will respect all of a person's legal rights instead of just some or most of those legal rights, when the government deprives a person of life, liberty, or property. Due process has also been interpreted as placing limitations on laws and legal proceedings in order to guarantee fundamental fairness, justice, and liberty. To this end the Fifth Amendment contains a guarantee of basic due process applicable only to actions of the federal government--"No person shall be . . . deprived of life, liberty, or property, without due process of law . . ."

The 14th Amendment contains the same verbiage expressly applied to Virginia. The Supreme Court has interpreted the two clauses identically, so under the federal Constitution, there is no substantial difference in protection from federal or State action. However, Virginia's constitution also has its own guarantees of due process that by their own terms or by the interpretation of the Virginia Courts, extend even more protection to individuals than under federal law. Article 1, Section 11 of the Constitution of Virginia.

Additionally, this Court has recognized state-created interests called "entitlements" in cases involving welfare benefits, *Goldberg v. Kelly*, 397 U.S. 254, 90 S.Ct. 1011, 25 L.Ed.2d 278 (1978), public employment, *Board of Regents v. Roth*, 408 U.S. 564, 92 S.Ct. 2701, 33 L.Ed. 2d 548 (1972), and social security duality benefits, social security disability benefits *Mathews v. Eldridge*, 424 U.S. 332, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). Such entitlements are privileges extended to the public at large or to a well-defined section of society, i.e. an active member of the Virginia Bar under a retainer agrees to litigate a contract dispute, VA Code § 54.1-3932.

To claim to such entitlement, Rodriguez must demonstrate both his inclusion in the group expecting the entitlement, and that such entitlement is present in "rules and understandings, promulgated and fostered by state officials." *Perry v. Sinderman*, 408 U.S. 593, 93 U.S. 2694, 33 L.Ed.2d 570 (1972).

Rodriguez meets both of these requirements in satisfying VA Code with his contract with both SSA Entities *et al.*, and Devis, and complying with the procedure of the Virginia Bar in obtaining the Legal Ethics Opinion (A-50), before seeking protection from a business conspiracy. Rodriguez has a constitutionally protected property right in his perfected charging Virginia Attorney's Lien, his business and profession, which has been violated by the Courts of Virginia denying to grant him procedural due process by allowing the VSB to investigate him, and issue a void order revoking his license to practice since October 27, 2006.

In *Leis v. Flynt*, 439 U.S. 438, 99 S.Ct. 698(1979), this Court stated, "the Constitution does not create property interests. Rather it extends various procedural safeguards to certain interests 'that stem from an independent source such as state law.'" *Board of Regents v. Roth*, 408 U.S. 564, 577 (1972); *see Perry v. Sindermann*, 408 U.S. 593, 602 n. 7 (1972), ". . . . A claim of entitlement under state law, to be enforceable, must be derived from statute or legal rule or through a mutually explicit understanding. *See Perry, supra*, at 601-602. "

Here Rodriguez has a statute which has given him as a Virginia Attorney a property right, a Legal Ethics Opinion which confirms that he can protect said right from fraud, and Virginia precedent based on the clear intent of the State legislature holding that there is "no limitation," to protect said right, yet the S. Ct. of VA has refused to explain

why the court would not enforce Rodriguez statutory property right, thereby violating his right to due process "without a meaningful hearing, the application of a reasonable clear legal standard and the statement of a rational bases," for neither enforcing nor providing protection against fraud and business conspiracy. See *Flynt v. Leis* 574 F.2d 874 (6th Cir. 1978).

Finally, disbarment, is designed to protect the public as a punishment or penalty imposed on the lawyer. *Ex parte Garland*, 4 Wall. 333, 380, 18 L.Ed. 366 (1841). These are adversary proceedings of a quasi-criminal nature. *Cf. In re Gault*, 387 U.S. 1, 33, 87 S.Ct. 1428, 1446, 18 L.Ed.2d 527. Consequently, Rodriguez must be accordingly entitled to procedural due process, which includes fair notice of the charge, the opportunity to call witnesses, and compel the production of documents. *See In re Oliver*, 333 U.S. 257, 273, 68 S.Ct. 499, 507, 92 L.Ed. 682. None of which was done.

The VSB, under the direction of the Chief Justice of the S. Ct. of VA violated Rodriguez rights pursuant to the Art. I, § 1, § 2, § 3 § 7, § 8 § 11§ 14, and § 17; and Art. VI, §§ 1, 4, and 5 of the Constitution of Virginia, and the First, Fifth, Sixth, Seventh, Ninth, and Fourteenth Amendment to the United States Constitution, by use of an unauthorized procedure to deny him of this right to a jury trial, deprive Rodriguez of the right to discovery, and actual notice of alleged wrongs and the facts in support thereof. Furthermore, Rodriguez was denied due process by denying a meaningful hearing by refusing to issue Witness Summons,

and Subpoenas *Duces Tecum* so to confront his accusers and to compel the production of documents in his defense.[12]

The record confirms that Rodriguez was not only denied the right to confront witnesses against him, the right to compel the production of documents on the issue of payment, denied the right to present his defense based on his rights under Va. Code, Treaty and Federal statutes, that the facts make clear that there was such an infirmity of any proof establishing misconduct by Rodriguez that the record will show the VSB hearing was nothing but a "kangaroo court";[13]

III. THE WRIT SHOULD BE GRANTED BECAUSE THE SUPREME COURT OF VIRGINIA VIOLATED RODRIGUEZ'S RIGHT TO EQUAL PROTECTION OF THE LAWS BY IT DISREGARDING THE MANDATE OF THE GENERAL ASSEMBLY, *STARE DECISIS*, A JURY TRIAL.

The S. Ct. of VA has denied Rodriguez his right to equal protection of the laws and due process rights guaran

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[12] The VSB "hearing" given to Rodriguez eviscerated the Confrontation Clause as applied in *Crawford v. Washington*, 541 U.S. 36 (2004) and *Tennessee v. Street*, 471 U.S. 409 (1995).

[13] "*Kangaroo court.*" . . . 2. A. Court or tribunal characterized by **unauthorized or irregular procedures**, esp. so as to render a fair proceeding impossible. 3. **A sham legal proceeding**. o The terms's origin is uncertain, traced to 1853 in the American West. 'Kangaroo' might refer to the illogical leaps between 'facts' and conclusions, or to the hapless defendant's quick bounce from court to gallows." Bryan A. Garner, Black's Law Dictionary, at page 382 (8th ed., 1999). (Emphasis added)

teed to him by both the United States Constitution and the Constitution of Virginia.

Equal protection and due process rights are described in Section 1 of the Fourteenth Amendment to the United States Constitution in the following language: "No state shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." The due process guarantees of Article I, Section 11 of the Constitution of Virginia are virtually the same as those of the United States Constitution.

However, the equal protection rights of Article I, Section 11 of the Constitution of Virginia are provided in its so-called "anti-discrimination" clause, which states: "the right [of a person] to be free from any governmental discrimination upon the basis of religious conviction, race, color, sex, or national origin shall not be abridged."

In the instant action the S. Ct. of VA has violated both Constitutions by: first, denying Rodriguez of the equal protection of the law granted by the General Assembly of Virginia to all other Virginia attorneys under VA Code § 54.1-3932, VSB LEO #1325(A-50), VA Bar LEO #1606,[14] and #1766, and the *stare decisis* of the S. Ct of VA, *see Huges v. Cole*, 251 Va3 (1996); *Heinzman v. Fine, Fine, Legi*

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[14]LEO 1606, states that, "[w]hen the attorney is discharged prior to the completion of the representation he may recover the reasonable value of the service which he has rendered . . . and in instances where the fee is contingent upon the outcome of the matter, the attorney may . . . recovery in *quantum merit* for services actually rendered. *See also Virginia Lawyer Register*, Answering Your Questions about Legal Ethics, Anne P. Miche, Assistant Ethics Counsel, Vol 51/No. 8, p. 13, ¶ 17-March 2003.

on and Fine, 217 Va. 958 (1977); second, by stigmatizing Rodriguez as noting but a Spanish "translator," and by revoking his license for seeking to enforce his rights as an active member of the Virginia State Bar.

IV. THE WRIT SHOULD BE GRANTED BECAUSE THE SUPREME COURT OF VIRGINIA VIOLATED RODRIGUEZ'S RIGHTS BY ALLOWING THE VSB TO ACT OUTSIDE OF ITS AUTHORITY IN RETALIATION FOR HIS FILING A NOTICE OF A VIRGINIA TORT CLAIM?

A. VSB Is Without Statutory Authority under VA Code

Pursuant to VA Code § 54.1-3935, the General Assembly of Virginia only gave to "courts" of Virginia the statutory authority to revoke the license as an active member of the Virginia State Bar.[15]

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[15] In Va Code § 54.1-3935. Procedure for revocation of license, states. "A. If the Supreme Court, the Court of Appeals, or any circuit court of this Commonwealth observes, or if a complaint, verified by affidavit is made by any person to such court, that any attorney has . . . has violated the Virginia Code of Professional Responsibility, the court may assign the matter to the Virginia State Bar for investigation. Upon receipt of the report of the Virginia State Bar, the court may issue a rule against such attorney to show cause why his license to practice law shall not be revoked. If the complaint, verified by affidavit, is made by a district committee of the Virginia State Bar, the court shall issue a rule against the attorney to show cause why his license to practice law shall not be revoked. (Emphasis Added)

B. If the rule is issued by the Supreme Court . . . the rule shall be returnable to the Circuit Court of the City of Richmond. At the time the rule is issued by the Supreme Court, the Chief Justice shall designate three circuit court judges to hear and

The General Assembly limited the VSB authority to investigate, and prosecute allegations in support of revoking a license of a member of the Virginia State Bar.

Finally, the General Assembly set out the specific procedure which was to be followed by Virginia Court when hearing a complaint verified by affidavit, seeking the revoking of a license to practice law. This was not complied with in the VSB proceedings.

B. VSB Is Without Authority under Va. S. Ct. Rules

At the outset, pursuant to "the well recognize rule of construction that if a rule of the Supreme Court [of Virginia] is at variance with a statutory enactment, the

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decide the case. . . . In proceedings under this section, the court shall adopt the Rules and Procedures described in Part Six, Section IV, Paragraph 13 of the Rules of Court. (Emphasis Added)

C. Bar Counsel of the Virginia State Bar shall prosecute the case. . . . (Emphasis Added)

D. Upon the hearing, if the attorney is found guilty by the court, his license to practice law in this Commonwealth shall be revoked or suspended for such time as the court may prescribe. In lieu of revocation or suspension, the court may impose any other sanction authorized by Part Six, Section IV, Paragraph 13 of the Rules of Court. (Emphasis added)

E. The attorney, may, as of right, appeal from the judgment of the court to the Supreme Court pursuant to the procedure for filing an appeal from a trial court, as set forth in Part 5 of the Rules of Court. In any such appeal, the Supreme Court may, upon petition of the attorney, stay the effect of an order of suspension during the pendency of the appeal. Any order of reprimand shall be automatically stayed prior to or during the pendency of an appeal therefrom. No stay shall be granted in cases where the attorney's license to practice law has been revoked. . ..

terms of the statute must prevail."1996 Va. AG 23, at page 2 (Emphasis added).

Consequently, the S. Ct. of VA cannot expand the authority of the VSB beyond that which was given by the General Assembly of Virginia.

The fact is that Part 6, § IV, ¶ 13(B)(5)(A)of the Rules of the Virginia Supreme Court, the VSB was delegated no authority to revoke the license of a member of the Virginia State. Thus, the VSB Order is *void*, and the S. Ct. of VA denied Rodriguez due process by not enjoining the VSB (A-1).

C. The VSB Had No Authority to Investigate Rodriguez for Exercising His Rights Under VA Code, Treaty and Federal Statute.

The VSB has violated its limited authority to investigate and prosecute by disregarding the restrictions of Part 6, § IV, ¶13(C)(5)(a) and (G)(1)(a)(1) and (5) of the Rules of the Virginia Supreme Court.

The VSB repeatedly demonstrated their lack of impartiality and a discriminatory attitude by seeking to punish and stigmatize Rodriguez for:

o litigating to secure his rights as a father under Va. Code, Treaty, and Federal;

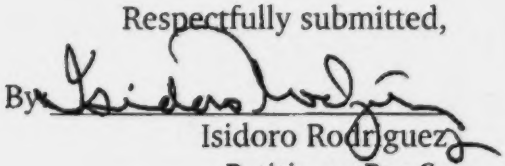
o seeking an investigation by both Congress and the General Assembly of Virginia of the refusal of the Executive Branch and the Judiciary to comply with the mandates under VA Code and Treaty;

and is *void*.[17] Consequently, th S. Ct. of VA has denied Rodriguez due process and equal protection of the laws in retaliation for his filing of a Notice of a Virginia Tort Claim against them for their acts outside of their jurisdiction and judicial capacity.

CONCLUSION

For the above reason, the Petition should be granted.

Respectfully submitted,

By 

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[17]Pursuant to the United States Supreme Court, an illegal order is forever void. An order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. (See *Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; Windsor v. McVeigh, 93 US 274, 23 L ed 914 (1876); *McDonald v. Mabee* 243 US 90, 37 Sct 343, 61 L ed 608 (1917).